

Federal Communications Commission
Washington, D.C.

February 7, 2000

Association of America's Public Television Stations
c/o Andrew D. Coltar; staff attorney
1350 Connecticut Ave., NW, Suite 200
Washington, D.C. 20036

Re: Acceptance of Comments As Timely Filed in (MM Docket No. 99-325; FCC 99-327)

The Office of the Secretary has received your request for acceptance of your pleading in the above-referenced proceeding as timely filed due to file corruption related to the Electronic Comment Filing System (ECFS). Pursuant to 47 C.F.R. Section 0.231(I), the Secretary has reviewed your request and verified your assertions. After considering arguments, the Secretary has determined that this pleading will be accepted as timely filed. If we can be of further assistance, please contact our office.

FEDERAL COMMUNICATIONS COMMISSION

William F. Coltar
WFC
for Magalie Roman Salas
Secretary

AMERICA'S
PUBLIC
TELEVISION
STATIONS

January 27, 2000

RECEIVED

JAN 27 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Ms. Magalie Roman Salas, Secretary,
Federal Communications Commission,
Office of the Secretary, 445-12th Street, SW
Federal Communications Commission
Washington, DC 20554

RE: MM Docket No. 99-325; FCC 99-327

Dear Ms. Roman Salas:

On January 24, 2000, the Association of America's Public Television Stations submitted its Comments in the above captioned proceeding via the Electronic Comment Filing System. Attached is a copy of the confirmation APTS received. However, today it came to our attention that the filing we submitted somehow became corrupted at the Commission, so that what was a five page comment, cleanly formatted in Microsoft Word for Macintosh, became a 162 page document filled with meaningless symbols and fragments of the original. Accordingly, APTS is again submitting its Comments but on paper. We ask that, pursuant to 47 C.F.R. §§1.41 and 1.46, you waive the deadline for filing comments in this case to allow our document to become part of the public record.

Sincerely,



Andrew D. Cotlar, staff attorney
Association of America's Public Television Stations
1350 Connecticut Ave., NW, Suite 200
Washington, DC 20036
202-887-1700
Fax: 202-293-2422

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**Federal Communications Commission**

The FCC Acknowledges Receipt of Comments From ...
Association of America's Public Television Stations
...and Thank You for Your Comments

Your Confirmation Number is: '2000124343795 ' 1		
Date Received: Jan 24 2000		
Docket: 99-325		
Number of Files Transmitted: 1		
File Name		
File Type	File Size (bytes)	
COMMENT	Microsoft Word	64445

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Original

Before the
Communications Commission
Washington, D.C. 20554

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JAN 27 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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MM Docket No. 99-325
FCC 99-327

COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations ("APTS") hereby submits its comments in the above captioned proceeding. APTS is a nonprofit organization whose members comprise nearly all of the nation's 352 noncommercial educational television stations. APTS represents public television stations in legislative and policy matters before the Commission, Congress, and the Executive Branch, as well as engaging in planning and research activities on behalf of its members. APTS opposes the Commission's proposal to reallocate to the Digital Audio Broadcasting ("DAB") service the six megahertz spectrum at 82-88 MHz currently used for television Channel 6 operations. The Commission's proposal displays an unwarranted departure from Commission precedent and may thwart the orderly transition of some public television stations to digital operations.

Introduction

On November 1, 1999, the Commission released a Notice of Proposed Rule Making in the above captioned matter. In addition to soliciting comments on certain technical questions, the Notice requested comment on whether the six megahertz of

spectrum at 82-88 MHz, currently used for television Channel 6 operations, should be reallocated to the DAB service at the end of the DTV transition.¹ In support of this proposal, the Commission noted that the DTV table of allotments includes only one Channel 6 allotment for the United States (at New Haven, CT), and that it would be possible to identify a new DTV channel for this station.² Additionally, the Commission noted that there are currently 57 analog stations operating on Channel 6, but that these stations are scheduled to cease operation after year 2006 or the end of the DTV transition period.³ The Commission expressed the view that, although an analog television licensee that received a “paired” DTV channel assignment may elect to keep its existing analog channel when it converted to all-digital service, this election is subject to Commission review and approval. Accordingly, if the Commission were to pursue a DAB service at 82-88 MHz, it would not permit any Channel 6 television licensees to make such an election.⁴

Argument

APTS opposes the Commission’s proposal to eliminate television Channel 6 from the DTV core allotment to accommodate DAB. In particular, the Commission’s proposal would impede the plans of some stations to return to analog Channel 6 for their digital operations at the end of the transition. Further, APTS is very concerned

¹ In the Matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, Notice of Proposed Rulemaking, MM Docket No. 99-325, FCC 99-327 (November 1, 1999), ¶41. Currently, the Commission has allotted eight licenses to operate noncommercial educational stations on NTSC TV Channel 6. See 47 C.F.R. §73.606 (1998). An ninth licensee operates a noncommercial educational station on Channel 6 but on an unreserved basis.

² Id. at ¶44, n.92. This is incorrect, because channel 6 has been allocated in the DTV table of allotments to three communities: New Haven, Connecticut; Portland, Oregon; and Juneau, Alaska. See 47 C.F.R. §73.622(b) (Oct 1, 1998).

³ Id. at ¶44.

⁴ Id. at ¶44, n. 93.

that the elimination of a core channel may imperil the transition to digital service by reducing the number of DTV channels available in the core to out-of-core and pending noncommercial applicants.

The Commission's proposal displays an unwarranted departure from previous Commission commitments to preserve the integrity of television Channel 6 operations. Previously, the Commission had held that Channel 6 was to remain in the core DTV spectrum and found that "it is important to maintain the availability of Channel 6 for television service," because "Channel 6 has advantageous propagation properties and has proven very desirable for television operation."⁵ Accordingly, the Commission concluded that "it would be undesirable to remove Channel 6 from the core spectrum or to impose additional restrictions on the use of this channel for DTV service after the transition."⁶

The Commission's proposal would thwart the plans of those television Channel 6 licensees who want to return to their NTSC allotments when the DTV transition is complete. Relying upon previous Commission assurances that Channel 6 would remain in the digital core, these licensees have based their digital transition plans on returning to their analog Channel 6 allotments after the transition. It is fundamentally unfair for the Commission, at this point in the digital transition, to depart from its continuous assurances that Channel 6 would remain in the digital core and be available for digital television operations.

⁵ In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, MM Docket 87-268, FCC 98-315 (adopted November 24, 1998, released December 18, 1998), ¶57.

⁶ Id.

Additionally, the Commission has assured the public that at the end of the transition, it will reassign all out-of-core DTV broadcasters, including pending noncommercial applicants, to channels within the DTV core.⁷ In making such assurances, the Commission stated its confidence that sufficient channels will be available to provide all out-of-core stations with new DTV channels.⁸ Nevertheless, if a core channel, such as television Channel 6, is deleted from the DTV allotments, it will be significantly more difficult for displaced NTSC licensees to acquire DTV channels within the DTV core.

Conclusion


APTS urges the Commission not to reallocate the 82-88 MHz band from its current use as television Channel 6. This reserved band contains advantageous propagation properties ideal for television operations and to reallocate it would constitute an unwarranted departure from past Commission precedent. Reallocation would prevent Channel 6 licensees from returning to their analog channels for digital operations after the transition. Moreover, by reducing the number of DTV channels

⁷ In the Matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, MM Docket 87-268, FCC 98-315 (adopted November 24, 1998, released December 18, 1998), ¶22.

⁸ Id.

available, the Commission would be making it more difficult for certain licensees to return to the DTV core when the transition is complete.

Respectfully submitted,

A handwritten signature in black ink, reading "Lonna M. Thompson". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Marilyn Mohrman-Gillis,
Vice President, Policy & Legal Affairs
Lonna M. Thompson,
Director, Legal Affairs
Andrew D. Cotlar,
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